

FEB 15 2012

Federal Communications Commission  
Office of the SecretaryAVISTA CORPORATION  
FRN - 0001583293

99-87

**REQUEST FOR EXTENSION OF NARROWBANDING DEADLINE**

Avista Corporation ("Avista" or "the Company"), pursuant to Section 1.925 of the Commission's rules<sup>1</sup> and the July 13, 2011 Public Notice providing guidance for the submission of narrowbanding extension requests,<sup>2</sup> respectfully requests a conditional 24-month extension of the January 1, 2013 deadline for private land mobile radio services in the 150-174 MHz VHF band to migrate to narrowband technology.

Avista is seeking to migrate its land mobile operations to the Automated Maritime Telecommunications Service ("AMTS") band, but its efforts have been delayed due to a long pending Petition to Deny regarding Avista's modification applications to add base station locations to its licenses.

**I. BACKGROUND***A. The Company*

Avista is an energy company involved in the production, transmission and distribution of energy as well as other energy-related businesses. Founded in 1889 and headquartered in Spokane, Washington, Avista is an investor-owned utility traded on the New York Stock Exchange (ticker symbol: AVA) with annual revenues of more than \$1.5 billion (2010 revenues). The company's utility segment provides electric and natural gas service to more than 485,000 customers in a service territory of more than

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<sup>1</sup> See 47 C.F.R. § 1.925.

<sup>2</sup> See Wireless Telecommunications Bureau, Public Safety and Homeland Security Bureau, and Office of Engineering and Technology Provide Reminder of January 1, 2013 Deadline for Transition to Narrowband Operations in the 150-174 MHz and 421-512 MHz Bands and Guidance for Submission of Requests for Waiver and Other Matters, Public Notice, DA 11-1189 (rel. July 13, 2011) ("Waiver Guidance Public Notice").

30,000 square miles in eastern Washington, northern Idaho, western Montana and parts of northeast and southwest Oregon.

Avista serves its customers with a mix of hydro, natural gas, coal and biomass generation delivered over 2,600 miles of transmission line, 18,000 miles of distribution line and 10,700 miles of natural gas distribution mains. The company employs approximately 1600 employees in four states.

*B. Avista's AMTS License Acquisition*

In June 2009, Avista acquired four AMTS licenses,<sup>3</sup> which the company intended to use to replace its existing wideband land mobile communications system in advance of the Commission's January 1, 2013 narrowbanding deadline.<sup>4</sup> Avista's proposed AMTS system will consist of multi-site trunked mobile radio services exclusively for Avista's employees and authorized contractors and agents. Further, it will be used primarily for the safety of crews and the operation, protection and restoration of electric and gas transmission and distribution infrastructure. It also will be used for fixed-wireless radio applications associated with instructions to and/or readings and information from various control and metering facilities within Avista's service territory, including power-generation facilities, distribution lines, electric sub stations, equipment yards, and end-user premises.

In June 2009, the Commission granted Avista authority to provide private internal land mobile communication service utilizing its AMTS spectrum, stating that Avista had

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<sup>3</sup> Call signs WQKP817, WQKP818, WQKP819, WQKP820.

<sup>4</sup> See File Nos. 0003771033, 0003796275 and 0003796380.

overcome the presumption that its AMTS licenses are to be used for Commercial Mobile Radio Service.<sup>5</sup>

When Avista attempted to modify its AMTS licenses to add base station locations, however, Spokane Television, Inc., the owner of channel 13 television station KXLY-TV in the Spokane Washington area, filed a Petition to Deny Avista's applications.<sup>6</sup> As a result, Avista's modification applications have been pending with the Commission since December 23, 2009 preventing Avista from initiating the build-out of its AMTS land mobile system.<sup>7</sup>

Avista requests a 24-month extension of the narrowbanding deadline (*i.e.*, until December 31, 2014) to ensure that the company either has time to construct its AMTS system or comply with the Commission's narrowbanding requirement on a deferred basis.

## **II. Request for Extension**

The Commission may grant a request for waiver if it is shown that:

- (i) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or
- (ii) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly

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<sup>5</sup> See File Nos. 0003771033, 0003796275 and 0003796380.

<sup>6</sup> Oregon Public Broadcasting also filed a Petition to Deny certain other Avista AMTS base station locations. Due to the delay in processing those applications Avista cancelled its plans to deploy a next-generation AMTS system and is not requesting a narrowband deadline extension for those licenses.

<sup>7</sup> See ULS File Nos. 0004076539, 0004076539, 0004076544. Avista noted in its Opposition to Spokane TV's Petition to Deny that "[a]n extension of the Commission's January 1, 2013 narrowbanding deadline may be necessary to accommodate delays to Avista's construction efforts" due to the Petition to Deny.

burdensome or contrary to the public interest, or the applicant has no reasonable alternative.<sup>8</sup>

Avista believes that both of the above tests are met.

The purpose of the Commission's narrowbanding mandate is to encourage spectrum efficiency and reduce congestion in the VHF and UHF land mobile bands. Avista acquired AMTS spectrum on the secondary market and thus has taken the Commission's goal of reducing VHF land mobile congestion a step further than envisioned by the Commission. Upon construction and implementation of its AMTS band network, Avista will be in position and is committed to returning significantly more VHF spectrum to the licensing pool than otherwise achievable by narrowbanding its existing VHF licenses. At the same time, Avista's AMTS system has capabilities over and above those of its current VHF system and will provide the company significant operational benefits that will support its 485,000 customers.

Extension of the deadline also is warranted because strict application would be inequitable, unduly burdensome and contrary to the public interest in view of the unique factual circumstances presented here. Avista acquired its AMTS licenses approximately three and one-half years prior to the January 1, 2013 narrowbanding deadline. Avista promptly completed system planning and filed applications with the Commission to modify its licenses to add base station locations as required by Section 80.215 of the Commission's rules.

Unfortunately, Avista's modification applications have been stalled as the Commission considers the nature of interference risk mitigation steps AMTS licensees

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<sup>8</sup> 47 C.F.R. § 1.925(b)(3) (emphasis added). See also *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969); *Thomas Radio v. FCC*, 716 F.2d 921 (D.C. Cir. 1983).

may be required to provide to channel 13 DTV over-the-air broadcaster reception in the moderately-populated Avista energy distribution service area. Avista appears to be the first and, to date, only AMTS licensee subject to broadcaster opposition after the DTV conversions. Avista has submitted extensive engineering studies regarding its planned system, addressing the repetitive and largely unsupported arguments raised by Spokane TV. This opposition has persisted despite the efforts of the Wireless Telecommunications Bureau staff encouraging Avista and Spokane TV to adopt a workable solution to permit the operation of Avista's proposed system. The applications for modification have been pending at the Commission for approximately 24 months and counting. In light of the considerable investment Avista has made in the previously-auctioned spectrum and considerable engineering and site analysis work required for its proposed AMTS system, the substantial benefits the system will provide for the distribution of energy to Avista's customers and Avista's persistent good faith efforts to expeditiously resolve the issues raised by Spokane TV, it would be inequitable, unduly burdensome and contrary to the public interest to require Avista to narrowband its existing VHF system and forgo its ongoing investment in its proposed next-generation AMTS system.

The Commission's Waiver Guidance Public Notice listed several factors that the Commission will evaluate in considering a request to extend the narrowband deadline and each of those factors is addressed below:

*1. Steps already taken to plan for and implement the transition to narrowband operations*

As described above, Avista acquired AMTS spectrum on the secondary market in 2009 and has planned its proposed AMTS land mobile system.<sup>9</sup> Avista has prepared extensive engineering studies, which have been submitted to the Commission, regarding its AMTS land mobile system and has access rights to the real estate and tower space necessary for system deployment. Avista has ordered some equipment and is prepared to complete its equipment order immediately upon grant of its AMTS modification applications.

*2. System size and complexity*

Avista's proposed AMTS system consists of approximately two dozen base stations and 600 mobile units. The proposed system is a spectrally efficient multi-channel trunked system enabling maximum channel re-use.

*3. System equipment and whether it is narrowband-capable or must be replaced or upgraded*

Avista is seeking to deploy an AMTS land mobile system and must entirely replace and upgrade its current communications infrastructure. Avista's aging VHF system is not narrowband capable and lacks many of the benefits and efficiencies Avista will gain through deployment of its AMTS system. These benefits and efficiencies include, but are not limited to, the following:

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<sup>9</sup> The Commission's policies, including the new "Spectrum Dashboard" online tool, encourage the use of secondary markets for spectrum acquisition. See Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets, *First Report and Order and Further Notice of Proposed Rulemaking*, FCC 03-113, WT Docket No. 00-230 (2003). Spectrum Dashboard available at: <http://reboot.fcc.gov/reform/systems/spectrum-dashboard>.

- a) Auto registration for field personnel regardless of location throughout the service territory.
- b) Automatic Vehicle Location yielding work management efficiencies as well as significant improvement in field worker safety.
- c) Enhanced, bidirectional dispatching functionality.
- d) Enhanced fleet management.
- e) Enhanced system performance as a result of an exclusive use, geographical area license.
- f) Contributes significantly to a future “soft” DMR architecture migration strategy.

Additionally, and most importantly, Avista’s utility customers will benefit from improved response/restoration times.

#### *4. Funding sources*

Avista’s private wireless communications deployments for internal communications requirements that are essential for the operation and safety of its energy transmission and distribution networks and customers are self-funded. Funds have been budgeted and allocated for all equipment and deployment costs.

#### *5. The licensee’s narrowbanding schedule and whether it is affected by neighboring systems due to interoperability issues*

Avista’s final narrowbanding schedule depends on the date the Commission grants the company’s AMTS modification applications. Because Avista has completed



RF engineering analyses and planning and site acquisition, it can immediately order the remaining equipment upon grant of its modification applications.

Due to the climate in the Pacific Northwest and the mountaintop locations of Avista's land mobile base stations, there is a limited window of approximately five months during each calendar year in which Avista can safely and reasonably deploy base station equipment. A 24-month extension will provide Avista with two full deployment seasons and one partial deployment season. Extensions of less duration will impair Avista's ability to deploy its system because the Company cannot safely deploy equipment at base station sites during the late-fall, winter and early-spring months. Avista's intent is to move as expeditiously as possible with deployment of its system and the company will notify the Commission if it is able to complete implementation prior to December 31, 2014.

*6. Plans to minimize the negative impact of extended wideband operations on co-channel and adjacent channel operations*

Avista acknowledges that maintaining wideband operations after January 1, 2013 will occupy spectrum that would otherwise be available for adjacent channel VHF operations. Avista believes, however, that this is far outweighed by the fact that spectrum will be returned to the licensing pool once Avista migrates to its AMTS system that would not otherwise be available if Avista narrowbanded its existing VHF equipment.



*7. If the licensee plans to migrate to a non-VHF/UHF band, whether it will relinquish the VHF/UHF spectrum once it has migrated and the amount of spectrum to be relinquished.*

As noted above, for several years Avista has planned to relinquish the following VHF licenses upon completion of the deployment of its AMTS land mobile system:

KA3396	KFM796	KGO651
KNIC261	KOA401	KOA544
KOB227	KOB519	KOE262
KOE290	KOE390	KOE464
KOF407	KOG402	KOG592
KOH901	KOI282	KOK432
KOK940	WNFU403	WNSU658
WPAZ378	WPEQ287	WPMJ881
WQF840	WQFT245	

*7. Proposed timetable for completion of narrowbanding including the steps already taken or will take prior to January 1, 2013, as well as the dates on which the licensee anticipates it will commence and complete the replacement or retuning of its mobile units, portable units, and infrastructure.*

See response to Item No. 4 above.

Based on the forgoing, Avista respectfully requests a 24-month extension of the narrowbanding deadline consistent with this submission.

Should the Commission require additional information, it is asked to contact Avista's telecommunications counsel: Doug Jarrett, Keller and Heckman LLP, 1001 G Street NW, Washington, DC 20001; 202-434-4180; e-mail: jarrett@khlaw.com, or Greg Kunkle, 202-434-4178; e-mail: kunkle@khlaw.com.

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